

**Remarks**

After the foregoing amendment, claims 1 to 29, 32, and 34 to 41 are pending, with claims 1, 2, 11, 13, 15, 34, and 39 being the independent claims. No new claims have been added. Claims 30, 31 and 33 have been canceled. Applicant respectfully requests entry of this amendment and allowance of the remaining claims.

***Allowable subject matter***

The Examiner indicates that claims 2, 3, 11, 15, 16, 34-36, and 39-41 would be allowable if rewritten in independent form. In the foregoing amendment, claims 2, 11, 15, 34, and 39 have been rewritten as independent claims including the subject matter of the base claim and intervening claim (if any) from which they previously depended. It is submitted that these claims should now be allowable, in addition to claim 3 which depends from claim 2, claim 16 which depends from claim 15, claims 35 to 38 which all now depend from claim 34, and claims 40 and 41 which depend from claim 39. Allowance of claims 2, 3, 11, 15, 16, and 34-41 is therefore respectfully requested.

***35 USC §102(b) - Alessandri***

The Examiner has rejected claims 1, 4-10, 12-14, 17-26, 29-33, 37 and 38 as anticipated by Alessandri. Claims 30, 31 and 33 have been canceled without prejudice or disclaimer and claims 37 and 38 are now amended to depend from allowable claim 34. The rejection of the remaining claims listed above is hereby respectfully traversed for the reasons stated below.

For a reference to anticipate a claimed invention, the reference must include every element of the claim. Alessandri does not include every element of amended claim 1. First, the exercise arm assembly in Alessandri does not have three non-parallel pivot axes with one of the pivot axes non-perpendicular to the other two. The three pivot axes identified by the Examiner are the pivot axis 51 of arm 50, the pivot axis defined by pivot pin 65a, and the pivot axis of handle 71 (which is actually the central axis of the outer annular member 69 in which handle 71 and annular member 70 rotate – see column 3, lines 30 to 35). Pivot axis 65a will always be perpendicular to pivot axis 51 (see Figures 1 and 3), since the pivot pin is fixed to the end of arm 50. Pivot axis 65a will also always be perpendicular to the central axis of annular member 69 in which the handle is rotatably mounted (see Figure 2). Therefore, there is no pivot axis in Alessandri which is non-perpendicular to both of the other pivot axes.

Second, Alessandri does not have a pivot connection between a swing arm and main arm which allows free pivoting of the swing arm within a predetermined angular range about a second pivot axis. Part 79 of Alessandri which the Examiner defines as the swing arm is actually a short, sleeve-like device containing components for adjusting the orientation of the hand grip 71 with respect to the central axis 53 of the main arm (see Figure 3 and column 4, lines 15 to 19). Part 79 cannot pivot freely about pivot axis 65a during an exercise, but instead is fixed in selected angular position by a tab 78 which engages in a selected one of a series of indents in member 63, as seen in Figure 3. There is also no free pivoting in the alternative of Figure 4, where tab 79 is replaced by a toothed wheel which meshes with sector 63. Toothed gear engagement is not the same as free pivoting about a pivot axis within a predetermined angular range.

Similar arguments apply to amended claim 13. Alessandri does not have a pivot connection between each swing arm and the respective main arm which allows free pivoting motion of the swing arm in a predetermined angular range about a second pivot axis, and also does not have at least one pivot axis non-perpendicular to the other two pivot axes.

It is therefore submitted that amended claims 1 and 13 are not anticipated by Alessandri, and reconsideration and reversal of the rejection of these claims based on this reference is respectfully requested.

Claims 5 to 10 and 12 depend from amended claim 1 and are distinguished from Alessandri for the same reasons as claim 1. Additionally, referring to claim 5, there is no range limiting device in Alessandri which limits free rotation of a swing arm to a predetermined angular range. As noted above, the part 79 in Alessandri does not rotate freely. Instead, it has a tab which engages in a matching indent to hold the part 79 in a fixed position relative to pivot shaft 65a. There is no slot defining an angular range of movement of part 79 about pivot shaft 65a. Referring to claim 8, there is also no pin which engages in such a slot. In rejecting these claims, the Examiner refers to column 3, lines 46 onwards of Alessandri. This passage simply refers to the tab 78 which engages in a compartment or indent of sector 63, as illustrated in Figure 3, where it can be seen that part 79 is fixed and not freely rotatable when this engagement occurs.

Referring to claim 10, the grip 71 in Alessandri is not offset from the third pivot axis. Instead, the third pivot axis, which is the central axis of annular member 69, always extends

transversely through the center of grip 71 (see Figure 3, member 70 rotates inside member 69 and therefore about an axis comprising the central axis of member 69).

It is submitted that claims 5 to 10 and 12 are also distinguished from Alessandri, and reconsideration and reversal of the rejection of these claims is respectfully requested.

Amended claim 4 and claims 14, 17 to 26, and 29 all depend from amended claim 13 and are distinguished from Alessandri for the same reasons as stated above in connection with claim 13. Additionally, referring to claim 4, the handle in Alessandri is at the top of the part 79 and not on the inboard side of this part facing the opposite part 79. Referring to claim 14, it is not clear that there is a pivot sleeve extending between the first ends of arms 50 in Alessandri, or a pivot shaft rotatably mounted in such a sleeve and secured to the frame. The Examiner refers to part 63 as the pivot sleeve of this claim, but this is the sector at the second end of arm 50. Referring to claim 18, Alessandri has no range limiting device which limits free swinging movement of part 79 to a predetermined angular range between an inner position and an outer position. Instead, there is no free swinging movement of part 79 about pivot pin 65a. Part 79 is fixed in a selected position by a tab 78 which engages in an indent in toothed sector 63 on the main arm, and cannot rotate freely. Referring to claims 19 and 20, Alessandri does not have a rest position in which parts 79 are angled outwardly. Figure 2 is not the rest position and does not show part 79 angled outwardly. It simply corresponds to one possible fixed position of part 79 when engaged in sector 63 as in Figure 3 (see drawing description, column 2, lines 26 to 31).

Referring to claim 22, Alessandri has no limiter member comprising a slot (as explained above in connection with claim 8). Referring to claim 24, the grip 71 is not offset from the third pivot axis (see argument above in connection with claim 10).

It is submitted that claims 4, 14 to 26 and 29 are also distinguished from Alessandri, and reconsideration and reversal of the rejection of these claims is respectfully requested.

***35 USC §103(a) Alessandri in view of Trainor***

The Examiner rejects claims 27 and 28, which depend from amended claim 13, as obvious in view of Alessandri and Trainor. Trainor is cited as showing a C-shaped handle bracket. However, the elements of claim 13 which are lacking from Alessandri are similarly lacking from Trainor. Additionally, the C-shaped handle brackets of Trainor could not work in Alessandri's handle, where the grip is mounted on an inner annular member which rotates inside an outer annular member. It is

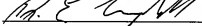
not clear what part of Alessandri's handle could be replaced with a C-shaped handle bracket while still allowing the desired rotation of grip 71 about two perpendicular axes. It is therefore submitted that claims 27 and 28 are not obvious in view of the cited references, and reconsideration and reversal of the rejection of these claims is respectfully requested.

**Conclusion**

It is believed that all claims remaining in this application, specifically claims 1 to 29, 32, and 34 to 41, are now in condition in all respects for allowance, and early notice to this effect is earnestly solicited. If the Examiner has any questions or comments regarding the above Amendments and Remarks or believes that a telephone conversation may be useful in advancing prosecution, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,  
Procopio, Cory, Hargreaves & Savitch LLP

Dated: 3/9/07

By:   
Richard E. Campbell  
Reg. No. 34,790

Procopio, Cory, Hargreaves & Savitch LLP  
530 B Street, Suite 2100  
San Diego, California 92101-4469  
(619) 238-1900  
**Customer No. 27189**